

EXHIBIT A-2

1 P. JUOLA

2 A That is correct.

3 Q Does Google Books Ngrams have
4 any cutoffs in terms of the years of
5 publication for the books in the database?

6 A It has a cutoff in that it can
7 only -- it only handles books that were
8 available, that have survived to the
9 present day. So you're not going to
10 find -- you're not going to find an
11 original copy of the Bible in it.

12 Q How about an end date? Does it
13 have an end date?

14 A I believe that it ended in -- it
15 has an end date, but I don't remember
16 exactly.

17 Q Would you agree that it's 2019?

18 A That sounds plausible.

19 Q So would you agree that Google
20 Books Ngrams does not include books
21 published after 2019?

22 A Yes.

23 Q Are there any limitations to the
24 Google Ngrams database that you're aware
25 of?

1 P. JUOLA

2 A It -- the primary one is
3 copyright. If they can't get permission
4 to -- if they can't get clearance to
5 include it, they couldn't use it.

6 There is also a frequency cutoff
7 that it needs to appear at least 40 times
8 to appear in the published list. Just gets
9 rid of a lot of the typos.

10 Q So tell me about the 40-time
11 frequency cutoff? What does that mean in
12 practical terms?

13 A That means we needed at least
14 40 -- it needed to occur at least 40 times
15 to be -- otherwise, it's listed as a 0, or
16 it's not listed at all.

17 Q So if your search -- if you are
18 searching for an n-gram in Google Books
19 Ngrams and it doesn't appear at least 40
20 times, the search result will be 0,
21 correct?

22 A Yes.

23 Q Are all the books in Google
24 Ngrams full-length novels?

25 A No.

1 P. JUOLA

2 Q And now, am I understanding
3 correctly that you think Google Books
4 Ngrams includes the same number of books as
5 Google Books, but it just --

6 A Uh-huh, it is my understanding.

7 Q That is your understanding?

8 A Yes.

9 Q All right. Do you know that for
10 certain?

11 A I don't work for Google. No, I
12 do not know it for certain.

13 Q Let me introduce an exhibit
14 here. This is coming your way.

15 (Exhibit 10, document entitled
16 "How the Google Books team moved
17 90,000 books across a continent"; 7
18 pages, was remotely introduced and
19 provided electronically to the
20 reporter, as of this date.)

21 BY MR. HALPERIN:

22 Q Let me know when you got it.

23 A I got it.

24 Oh, they're up to 40 million.

25 Q Correct. So what I just showed

1 P. JUOLA

2 you -- so Exhibit 10 is a printout of a web
3 page from Google entitled "How the Google
4 Books team moved 90,000 books across a
5 continent," is that correct?

6 A That is correct.

7 Q And this is published
8 January 27, 2023, right?

9 A That is the date on the
10 document, yes.

11 Q And then I'm just reading the
12 very first sentence underneath in the
13 story, and it says: "Explore Google Books
14 today, and you'll find more than 40 million
15 books in more than 500 languages."

16 Did I read that correctly?

17 A Yes.

18 Q And as you noted, you said, "Oh,
19 they're up to 40 million," correct?

20 A I did.

21 Q Okay. So does that make you
22 think that Google Books Ngrams includes
23 40 million or --

24 A No. Google Books Ngrams had the
25 cutoff of -- I think you said 2018?

1 P. JUOLA

2 Q 2019.

3 A 2019. Thank you.

4 Q All right.

5 So if you go with the 15 million
6 number that you provided in your report,
7 then Google Books Ngrams contains less than
8 half of the books in Google Books, right?

9 A Currently, yes.

10 Q And if you went with the
11 5 million number that you wrote in your
12 chapter in the Encyclopedia of Big Data
13 published 2022, then it includes less
14 than -- it includes roughly an eighth of
15 the books in Google Books?

16 A That is correct.

17 Q And what's your theory for why
18 there are more books in Google Books than
19 there are in Google Books Ngrams?

20 A Because they continued to
21 digitize.

22 Q Okay. So the reason why a book
23 might be in Google Books and not in Google
24 Books Ngrams is that they kept going after
25 2019 in Google Books?

1 P. JUOLA

2 methodology for investigating potential
3 shared authorship?

4 A Not to my knowledge.

5 Q Are you aware of anyone in the
6 published literature that says
7 investigating Google Books Ngrams is part
8 of a reliable methodology for looking to
9 see whether there's shared authorship in
10 two works?

11 A Not that I can cite. I mean, I
12 remember the existence of such things, but
13 I can't give you a citation.

14 Q One of the things you do cite in
15 your expert report when discussing Google
16 Books Ngrams is a publication by
17 Jean-Baptiste Michel in Sciencexpress,
18 correct?

19 A Yes.

20 Q All right. Why don't we take a
21 look at that.

22 MR. HALPERIN: I'm going to mark
23 it as an exhibit now.

24 (Exhibit 11, article entitled
25 "Quantitative Analysis of Culture

1 P. JUOLA

2 books ever published in 2010 -- or, rather,
3 in 2010, it contained 4 percent of all the
4 books published.

5 Q And they then go on from where
6 you read, they say: "Computational
7 analysis of this corpus enables us to
8 observe cultural trends and subject them to
9 quantitative investigation. 'Culturomics'
10 extends the boundaries of scientific
11 inquiry to a wide array of new phenomena."
12 Correct?

13 A Correct.

14 Q All right. So what they're
15 saying is this corpus allows them to
16 observe cultural trends and subject them to
17 quantitative investigation, correct?

18 A Correct.

19 Q And let's go to the next page
20 here, please, and I'll ask you to look at
21 the top left.

22 All right. And just the last
23 sentence in the top left paragraph of this
24 next page, which is page 2 of the PDF, they
25 say: "We restricted n to 5, and limited

1 P. JUOLA

2 our study to n-grams occurring at least 40
3 times in the corpus." Correct?

4 A Correct.

5 Q So this is them agreeing with
6 you that Google Books Ngrams does not let
7 you search for n-grams longer than 5 and,
8 also, that an n-gram will not appear in it
9 unless it appears 40 times in the corpus,
10 correct?

11 A That is correct.

12 Q Now, they go on in this --
13 you've read this article before, correct?

14 A I have read a version of this
15 article. As I said, I don't think I've
16 read this specific article.

17 Q Do you know whether the authors
18 here ever discuss using Google Books Ngrams
19 as part of a methodology to detect whether
20 two works share common authorship.

21 A I do not know of -- I do not
22 know of any of their writing on that
23 subject.

24 Q All right. Well, would you
25 agree that one of the uses for Google Books

1 P. JUOLA

2 Holmes. People write about Albert
3 Einstein.

4 Q And you could search for each --

5 A Of course, if you do a search
6 for Patrick Juola, there would probably be
7 nothing at all until the year I was born,
8 and probably continue to be nothing at all
9 for quite some time.

10 Q Okay. There are several
11 drop-down menus underneath the search bar,
12 right?

13 A Yes.

14 Q I just want to make sure I'm
15 using the same ones that you used.

16 So this first one is a date
17 range, right? And it has 1800 to 2019.

18 Is that the range that you used?

19 A No. I cut it down to -- I cut
20 it down to contemporary. So it was -- I
21 think it was 1999 to 2019.

22 Q So you looked at the last
23 20 years --

24 A Yeah.

25 Q -- or the last 20 years, but

1 P. JUOLA

2 the phrase "air as I try to" is rare?

3 A Yes.

4 Q Okay. And then the last one I'm
5 going to search for is "that million-dollar
6 smile of his," in quotes, with the hyphen,
7 correct?

8 A Yeah.

9 Q That's how you searched for it?

10 A Yes.

11 Q And we also got nothing, and
12 that's how you conclude that that phrase is
13 rare?

14 A I believe so, yes.

15 Q Okay. But this is actually a
16 six-word phrase, right?

17 A I don't know about -- I don't
18 know whether Google Books treats it the
19 same as the Google Viewer.

20 We can certainly try it with
21 taking out "that" or "his."

22 Q But we know that Google Books
23 Ngrams will not show a six-word n-gram?

24 A Right. So we can certainly
25 try -- well, if it treats it as a five-word

1 P. JUOLA

2 phrase with million-dollar single x
3 applied, then that's a five-word phrase.

4 Q Okay. But you don't know
5 whether --

6 A "Million-dollar smile" and
7 nothing comes up, then, obviously, "that
8 million-dollar smile of his" won't come up.

9 Q Okay. We can try
10 "million-dollar smile." We'll see what
11 happens.

12 But we don't know how it treats
13 the hyphen, correct?

14 A Yeah.

15 Q All right. So nothing on
16 "million-dollar smile," correct?

17 A No. No. We're doing something
18 wrong.

19 I think the Books Ngram actually
20 doesn't like the quotation marks.

21 Q Oh, it doesn't like quotation
22 marks?

23 A I don't think so.

24 Q So we're going to take out the
25 quotation marks?

1 P. JUOLA

2 A Yeah.

3 Q Oh, so we get something for
4 "million-dollar smile" when we take out the
5 quotation marks?

6 A Yeah.

7 Q Well, why don't we go back and
8 try -- so just to verify, "million-dollar
9 smile" does appear when you take out the
10 quotation marks?

11 A Uh-huh.

12 Q So I'm going to do "tree stump
13 seats."

14 Still doesn't show up, right?

15 A Still doesn't show.

16 Q So you're confident that "tree
17 stump seats" is still rare based on this,
18 right?

19 A Uh-huh.

20 Q All right. I'm going to try
21 "small Stonehenge."

22 Still doesn't come up.

23 And "air as I try to," that one
24 does come up.

25 A That one does come up.

1 P. JUOLA

2 Q So we can across that one off
3 the list then.

4 A We can cross that one off the
5 list.

6 Q And you'll agree --

7 A Well, let me check the numbers
8 because I'm -- one, two, three, four, five,
9 six, seven -- what was the -- what was the
10 number that they said in the Michel?

11 Q I'm sorry, the number --

12 A I'm talking to myself. Michel
13 gave a cutoff as to what rare is.

14 Okay. Yeah, no, it will --
15 yeah, no, we'll give you that one, "air as
16 I try to." I apologize.

17 Q No worries.

18 So we're going to cross off "air
19 as I try to" and "that million-dollar smile
20 of his", fair?

21 A Uh-huh.

22 Q All right. So we're left to
23 "tree stump seats" and "small Stonehenge"?

24 A No, no. "That million-dollar
25 smile of his," we need to try the full

1 P. JUOLA
2 thing. Just because "million-dollar smile"
3 appears doesn't mean "that million-dollar
4 smile of his" -- you know, that
5 "million-dollar smile of" ...

6 Q Okay. But so I just searched
7 for "that million-dollar smile of his," but
8 we know that it won't show anything if it's
9 a six-word n-gram, right?

10 A Right.

11 Q So we just don't know either way
12 on that one perhaps, correct?

13 A Correct.

14 Q So we don't know how it treats
15 the hyphen and if it does treat "million
16 dollar" as two separate words --

17 A Then it's beyond the scope of --

18 Q -- then it's beyond the scope,
19 correct?

20 A Yes.

21 Q All right. And did you search
22 for any of the phrases we just looked at in
23 ordinary Google?

24 A I did not --

25 Q Okay.

1 P. JUOLA

2 A Of course.

3 Q Are you familiar with a book
4 called "The Giving Tree"?

5 A Yes. Shel Silverstein, if I
6 remember right.

7 Q And is a part of the plot of The
8 Giving Tree that the tree turns into a tree
9 stump for sitting on?

10 A Yes, but I don't know if it
11 turns into a tree stump seat.

12 Q You don't know whether they use
13 the words "tree stump seats" in it?

14 A I do not. I have not read
15 Silverstein in years.

16 Q And you would agree that the
17 concept of tree stump seats is not a
18 concept Lynne Freeman came up with, right?

19 A Yeah. But the expression "tree
20 stump seats" is sufficiently rare.

21 Q I'm now googling Google Books
22 because I thought it would show me the
23 results for "tree stump seats" in Google
24 Books as a tab if I just didn't it in
25 Google --

1 P. JUOLA

2 Q So according to what the search
3 that you just watched me do, the phrase
4 "tree stump seats" appears about 200 -- in
5 about 233 books in the Google Books Corpus,
6 correct?

7 A Yes.

8 Q All right. So not zero times,
9 not --

10 A Not zero times, right.

11 Q Let's search for "that
12 million-dollar smile of his." I believe
13 this was another one, right?

14 A Yes.

15 Q Okay. So it's giving me
16 results. And, again, we've got 223
17 results.

18 And so, again, so this shows --
19 the search that you just watched me do
20 shows that that million -- the phrase "that
21 million-dollar smile of his," in quotes,
22 has appeared in about 223 results in the
23 Google Books Corpus, correct?

24 A Yes.

25 Q All right. Why don't we try

1 P. JUOLA

2 "small Stonehenge."

3 Did I put that in correctly?

4 A That's correct.

5 Q I'm going to click on tools so
6 we see the results.

7 So here we get about 278
8 results, correct?

9 A Yes.

10 Q All right. And so this shows
11 that the phrase "small Stonehenge" appears
12 in about 278 books in the Google Books
13 Corpus, correct?

14 A Correct.

15 Q And let's also try "Stonehenge
16 lite," which you also investigated.

17 Did I spell that correctly?

18 A Yes.

19 Q And here, we only get one book,
20 right?

21 A Here, we only get one book.

22 Q And what book is this?

23 A Court by Tracy Wolff.

24 Q So it actually looks like Lynne
25 Freeman used a phrase that has been used in

1 P. JUOLA

2 278 books in the Google Books Corpus and
3 Tracy Wolff used a phrase that has only
4 been use in one book, which is her book?

5 A It's been used 278 times. That
6 doesn't mean in 278 books.

7 Q Are you sure?

8 A No.

9 Q Okay. Because my understanding
10 is that when Google Books lists the
11 results, it gives them by book.

12 A But if it finds it several
13 times, it may list it several times within
14 the same book and it may count it multiple
15 times.

16 Q But you don't know either way?

17 A I don't know either way.

18 Q So you would agree that Tracy
19 Wolff used an exceptionally rare phrase,
20 correct?

21 A Tracy Wolff used an
22 exceptionally rare phrase.

23 Q And the phrase that Tracy Wolff
24 used is not the same phrase that Lynne
25 Freeman used, right?

1 P. JUOLA

2 A I phrase that Tracy Wolff used
3 is not the same as the phrase that Lynne
4 Freeman used.

5 Q The only overlap is that they
6 both used the word "Stonehenge," right?

7 A That is correct.

8 Q The -- Lynne Freeman did not
9 create the idea of a small Stonehenge, did
10 she?

11 A No.

12 Q That idea has been around in
13 popular culture for a long time?

14 MR. DONIGER: Calls for
15 speculation. Lacks foundation. Vague
16 and ambiguous.

17 A Yeah, I'd need to look more at
18 the references to figure out how long a
19 long time is.

20 Q Have you ever seen the movie
21 This is Spinal Tap?

22 A I have not.

23 Q Well, why don't we watch it
24 together and --

25 A If you want to burn 90 minutes

1 P. JUOLA

2 of your 7 hours watching a film, sure.

3 Q I'm just going to stop sharing
4 my screen for a second so I can get to the
5 right web page. All right?

6 A Okay.

7 Q All right. Let's share again.

8 So now we are looking at a
9 YouTube video entitled "Spinal Tap
10 Stonehenge," right?

11 A Okay.

12 Q Okay. I'm going to hit play.
13 This is -- just for some clarity here, This
14 is Spinal Tap is a mock documentary about a
15 heavy metal band and their antics. And
16 this is them.

17 What we're about to see is a
18 video of them performing a song about
19 Stonehenge, and they attempt to feature
20 Stonehenge in the background of their stage
21 at the concert. And I've just fast
22 forwarded to the part where the Stonehenge
23 appears. Okay?

24 I'm going to hit play. Let me
25 know if you have any issue seeing this.

1 P. JUOLA

2 (Videotape played.)

3 BY MR. HALPERIN:

4 Q All right. So did we just watch
5 a video where in the movie This is Spinal
6 Tap they drop a very small replica of
7 Stonehenge behind the band?

8 A It wasn't a replica of
9 Stonehenge. It was a replica perhaps of
10 one of the color windfall combinations.

11 Q Sorry. And did the members of
12 the band seem surprised at the size of the
13 replica?

14 A Uh-huh.

15 Q Yeah. So this -- and do you
16 know what year This is Spinal Tap came out?

17 A I do not.

18 Q I believe it was 1984. But
19 that's part of the public record, so we
20 don't need to check that right now.

21 Let's go back to the tree stump
22 seats.

23 Is it correct that Lynne Freeman
24 used no hyphen and Tracy Wolff used a
25 hyphen?

1 P. JUOLA

2 A It is -- or the other way
3 around. I forget which.

4 Q But they're actually not
5 identical because one used a hyphen and one
6 didn't?

7 A They are not identical.

8 Q Okay. So I think we have
9 crossed "air as I tried to" off the list
10 for you because that one did, in fact,
11 appear in Google Books Ngrams, correct?

12 A Uh-huh.

13 Q And you -- there's some
14 ambiguity as to whether "that
15 million-dollar smile of his" would appear
16 in Google Books Ngrams to the extent it
17 might be six words?

18 A Right.

19 Q And we agree that "small
20 Stonehenge" and "Stonehenge lite" are not
21 identical, correct?

22 A Uh-huh.

23 Q And we agree that "tree stump
24 seats" and "tree-stump seats" are also not
25 identical, correct?

1 P. JUOLA

2 MR. DONIGER: Vague and
3 ambiguous as to "identical."

4 A They're -- Google considers them
5 to be identical, I believe.

6 Q Okay. So sitting here today,
7 which of those four phrases that you
8 searched for do you think is reliable
9 evidence of sharing common authorship?

10 A I believe the first two are.

11 Q The first two being "tree stump
12 seats" and "small Stonehenge" versus
13 "Stonehenge lite"?

14 A Yes.

15 Q If we take out the latter two,
16 which are "air as I tried to" from -- and
17 "that million-dollar smile of his" and we
18 don't count those anymore, would that
19 affect your calculations?

20 A I'd have to go over the
21 calculations to be sure.

22 Would you like to step to the
23 technical appendixes and try to take them
24 apart?

25 Q We might do that later. But do

1 P. JUOLA

2 calculation.

3 Q And the same thing goes for
4 "Stonehenge lite," correct?

5 A Yes.

6 Q All right. Let's go to your
7 statistical analysis.

8 A So back to the appendix, you
9 mean?

10 Q No. I'm not sure how much
11 detail we're going to get into, but I want
12 to start with paragraph 25.

13 I guess my general question here
14 is, your statistical analysis depends on
15 the results of your analysis of the phrases
16 in Google Books Ngrams, correct?

17 A Yes.

18 Q And then does your analysis
19 assume that Google Books Ngrams is a
20 representative sample of English language
21 fiction?

22 A It assumes that it is a
23 representative sample of -- a
24 representative sample of English language
25 books.

1 P. JUOLA

2 Q And you ultimately base your
3 statistical analysis on the premise that a
4 word or phrase is rare if it doesn't appear
5 in Google Books Ngrams, correct?

6 A Yes.

7 Q Can you tell me the likelihood
8 that you are right or wrong in concluding
9 that a word or phrase is rare because it
10 doesn't appear in Google Books Ngrams?

11 A Well, that's a definitional
12 question.

13 Q What definition do we need to
14 talk about for that?

15 A Rare.

16 Q And what is your definition of
17 "rare"?

18 A Well, the definition of "rare"
19 that I used is it does not appear in Google
20 Books Ngrams.

21 The definition of "rare" that
22 Michel used -- well, they defined "common"
23 as occurs at least one time per billion
24 and -- occurs one time per billion and, by
25 extension, rare does not occur one time per

1 P. JUOLA

2 appendix. So why don't we go there.

3 A Okay.

4 Q And I'm going to look at 45(i).

5 A 45(i), for India.

6 Q Yeah. I have this on page 9 of
7 the report.

8 A Yes.

9 Q So you write there (as read):
10 We remind the reader that we are looking
11 for (rare) words/phrases that appear in
12 BMR, appear in Crave, but that do not
13 appear in Google Books Ngrams. Correct?

14 A Correct.

15 Q And that just kind of summarizes
16 your methodology in this part of your
17 analysis where what you're doing is
18 searching to see if the phrase is in BMR,
19 searching to see if it's in one of the
20 Crave books, and then searching to see if
21 it's in Google Books Ngrams?

22 A More or less.

23 Would you like me to explain in
24 more detail?

25 Q Go for it.

1 P. JUOLA

2 A All right. So basically what it
3 is, is we have a phrase and we know it is
4 rare enough to not appear in the roughly
5 150 billion words of Google Books because
6 it doesn't appear in Google Books.

7 Q Can I just stop you for one sec?

8 A Uh-huh.

9 Q You mean just -- you mean Google
10 Books Ngrams, right?

11 A Google Books Ngrams, yes.

12 Q Please continue.

13 A Okay. So we sampled 150 million
14 words and phrases in Google Books Ngrams
15 and did not find it. But we sample --
16 sorry, 150 billion. But we sampled only a
17 million words in the combined Crave series
18 and the -- and BMR.

19 So we sampled 150,000 times as
20 much data and did not find this phrase.
21 But it occurs in both of them in the sample
22 that is less than a thousandth of a percent
23 as big, which is the books under
24 discussion.

25 Q Did you test this methodology

1 P. JUOLA

2 before deploying it here?

3 A No.

4 Q So --

5 A It's math.

6 Q So one thing that you could do,
7 for example, is you could -- you could test
8 your Google Ngrams methodology on some
9 control phrases from works that you know
10 for certain are not shared authorship,
11 right?

12 A Did you just request that I do?

13 Q No, I'm not requesting anything
14 now.

15 But like, for example, you could
16 take two works that you know are not shared
17 authorship, that you know for certain are
18 written by different people, you know --

19 A They're not a kind to anything
20 there.

21 Q Right.

22 Say -- and let's say, for
23 example, you took book one of Harry Potter
24 and book one of Twilight --

25 A Uh-huh.

1 P. JUOLA

2 Q -- right?

3 And you could find a phrase that
4 appears in both of those, and we know for
5 certain that Harry Potter was written by
6 J.K. Rowling and Twilight was written by
7 Stephenie Meyer.

8 A Uh-huh.

9 Q Find a phrase that appears in
10 both of those, and you could search for
11 that phrase in Google Ngrams and see if
12 your methodology works correctly, right?

13 A I could do that, yes.

14 Q But you did not do that, right?

15 A It would be incredibly time
16 consuming because searching for the phrases
17 would involve searching for all of the --
18 all of the potential phrasal overlaps.

19 Q But you didn't do any
20 investigation against, you know, works that
21 we know --

22 A No. I relied on the list that
23 Trent Baer gave me.

24 Q Let's go to paragraph 46.

25 A 46.

1 P. JUOLA

2 anywhere in the million-word Brown corpus.

3 And then you have footnote 17. Thus, it
4 appears with frequency less than one in a
5 million words. Is that correct?

6 A Yes.

7 Q So what is on the Freeman
8 copyright -- copyrighted The World.doc
9 note?

10 A I don't remember. I don't think
11 I ever saw them.

12 Q Do you know if it's one of Lynne
13 Freeman's manuscripts?

14 A It's copyrighted by Freeman. I
15 would guess so.

16 No, I don't know.

17 Q Do you know if it is a set of
18 informal notes of hers?

19 A Again, I don't know.

20 Q You didn't review that document?

21 A I did not review that document.

22 Q Do you know the date it was
23 written?

24 A I do not.

25 Q You said that your attention was

1 P. JUOLA

2 drawn to it.

3 Without divulging any contents
4 of a privileged conversation, who drew your
5 attention to it?

6 A I believe it was Mr. Doniger.

7 But I don't remember.

8 Q And we talked about before about
9 the concept of over sampling
10 non-independent texts, correct?

11 Do you remember talking about
12 that with me before?

13 A Yes, we did.

14 Q But here, you're looking at
15 another thing that Lynne Freeman wrote that
16 at least has to do with BMR, correct?

17 A I don't know.

18 Q You just don't know.

19 So you don't know if you're
20 breaking the non-independence rule by
21 looking at this in your analysis?

22 A I do not.

23 Q You go on to say that the
24 cluster "katm" does not appear anywhere in
25 the million-word Brown Corpus.

1 P. JUOLA

2 And now, for this "katm"
3 cluster, you're using the Brown corpus,
4 correct?

5 A Correct. That's because the
6 Brown corpus allows me to look direct --
7 well, I actually looked at a histogram of
8 the Brown corpus, and I was able to look at
9 the individual letter patterns.

10 It is actually very difficult to
11 look for words matching a particular
12 pattern in the Google Books Ngram, and I
13 would not have been able to get any useful,
14 quantitative information out of Google --
15 out of Google or Google Books.

16 Q Did you search Google Books
17 Ngrams for "katm"?

18 A I did not.

19 Q You did not.

20 Do you want to see what it shows
21 you?

22 A Sure. Let's see what it shows
23 me.

24 Q All right. So I just pulled it
25 up here.

1 P. JUOLA

2 A Cool.

3 Q So it does appear in Google
4 Books Ngrams, right?

5 A That's interesting, it appears
6 to appear as a word.

7 Could you do me a favor and type
8 "katm *"?

9 Q Space after "katm"?

10 A Space star.

11 Q One result.

12 A Okay. One result "katm" and --
13 so this is the initialism that they're
14 talking about.

15 Q Okay.

16 A So it's a completely different
17 construct than a proper name.

18 Q Okay. But "katm" does appear in
19 Google Books Ngrams?

20 A In an entirely separate context
21 with an entirely separate use.

22 I mean, I believe I mentioned
23 that I -- that I looked at a dictionary for
24 words that contained "katm" and they
25 identified four proper nouns and one

1 P. JUOLA

2 initialism.

3 So it does -- it does occur, but
4 not as an element in English vocabulary
5 names.

6 Q Let me -- I'm just still
7 sharing, and I'm going to search for it in
8 Google Books. Okay?

9 A Go for it.

10 Q "katm." So we see 11,300
11 results?

12 A Uh-huh.

13 Q Okay. But you didn't look for
14 it in Google Books Ngrams or Google Books
15 as part of your --

16 A I did not.

17 And you'll notice that, again,
18 it's in a completely different context and
19 it's not a proper name.

20 I think "katm," in this context,
21 in the context of most of those, was
22 thousand atmosphere. So it's a pressure
23 measurement.

24 Q Okay. And you're saying that
25 it's notable here because Lynne Freeman and

1 P. JUOLA

2 Tracy Wolff used it in a proper name for a
3 place?

4 A As an element of a proper -- I
5 don't even know if those were place names.

6 Q Well, were you aware that
7 Katmai, K-A-T-M-A-I, is, in fact, a
8 real-life national park in Alaska?

9 A Yes.

10 Q So does that maybe explain where
11 Lynne Freeman got that name from?

12 A That will explain where Lynne
13 Freeman got it.

14 Q Okay. Are you aware of how
15 Tracy Wolff came up with Katmere?

16 A I am not.

17 Q Are you familiar with the school
18 in Harry Potter?

19 A Hogwarts?

20 Q Yes.

21 Do you know what Hogwarts is
22 spelled backwards?

23 A No.

24 Q All right. Or kind of inverted,
25 Hogwarts is warthogs, kind of inverted?

1 P. JUOLA

2 A Okay.

3 Q All right. And Katmere is
4 "merekat," also similarly inverted?

5 A Okay.

6 Q Were you aware that Tracy Wolff
7 has stated in an interview that she came up
8 with Katmere because it was a tribute to
9 Hogwarts and warthogs?

10 A No, I'm not aware of that.

11 Q Does that strike you as a
12 reasonable explanation for how she came up
13 with it?

14 MR. DONIGER: Objection. Calls
15 for speculation.

16 A I have no opinion on that
17 question.

18 Q Ultimately, you assign a higher
19 probability of independent authorship for
20 the "katm" cluster than your other
21 probabilities, correct?

22 A Yes.

23 Q And so you say this one has, I
24 think, a 25 percent chance of independent
25 authorship, whereas the others is much

1 P. JUOLA

2 A Right. And the Brown corpus is
3 a much smaller baseline, so the probability
4 of -- so the evidence against it being
5 common is much less.

6 Q Where did this group of 10 books
7 come from?

8 A I discussed it with Mr. Doniger,
9 and these are a reasonable sample of young
10 adult, supernatural fiction.

11 Q When you say it's a "reasonable
12 sample of young adult, supernatural
13 fiction," what are you basing that on?

14 A They're all easily accessible.
15 I can confirm that they exist. They have
16 independent back stories, so I no reason to
17 believe that any of them were influenced by
18 any other. They're not translations from
19 anywhere. They're roughly contemporaneous.

20 I would not have wanted to
21 use -- I would not have wanted to use
22 Dracula, for example, because Dracula is --
23 number one, it's an epistolary novel, which
24 is a weird genre.

25 Number two, it was written 200

1 P. JUOLA

2 years ago, which makes it unrepresentative
3 of modern English. But these were all
4 pretty good.

5 Q I'm understanding correctly,
6 Mr. Doniger provided these 10 novels to
7 you?

8 A I -- yes, I believe so.

9 Q You did not select them
10 yourself?

11 A We discussed which ones he would
12 be providing, and these were the ones --
13 and these were the ones we ended up
14 getting.

15 Q You did not do a comprehensive
16 survey of the supernatural fiction genre to
17 determine whether these 10 novels were the
18 most representative, did you?

19 A I did not.

20 Q Do you know if Mr. Doniger did
21 that?

22 A I do not know what Mr. Doniger
23 did or did not do.

24 Q Are you aware that plaintiff,
25 Lynne Freeman, has another linguist expert

1 P. JUOLA

2 Dr. Carole Chaski?

3 A I am.

4 Q Okay. Do you know whether she
5 used these same exact 10 novels?

6 A I do not.

7 Q Did you read Dr. Chaski's
8 report?

9 A I have not read Dr. Chaski's
10 report.

11 Q Have you read any of these 10
12 novels the way one would read a book?

13 A No, I have not.

14 Q How many works in the
15 supernatural fiction genre have you
16 personally read?

17 A I read so much and remember so
18 little, particularly of like, you know,
19 just light fiction. I don't remember.

20 Q All right. If I were to take
21 the entire supernatural fiction genre and
22 pick the 10 novels that I thought were most
23 representative, do you think I would get
24 these exact 10?

25 A Probably not. I mean, you know,

1 P. JUOLA

2 completely different methodology.

3 Q Okay. So in the first time,
4 you're considering whether they're
5 seven-word sequences, and the second time,
6 you're considering whether they appear in
7 Google Books Ngrams?

8 A Yes.

9 Q And that's why you think that
10 they're independent?

11 A Yes.

12 Q Okay. And so based on those
13 four analyses, you conclude that it is more
14 likely than not that the works both derive
15 from the same specific sources containing
16 those linguistic features?

17 A Yes.

18 Q All right. And what do you mean
19 by "same specific sources"?

20 A That these things came from --
21 either Freeman copied Wolff, Wolff copied
22 Freeman, or they were both quoting from a
23 common source.

24 Q Does it have to be quoting from
25 a common source or --

1 P. JUOLA

2 A No, no, "quoting" is not the
3 right word. Thank you for correcting me on
4 it.

5 They were both alluding to or
6 describing a common source.

7 Q And it could be both alluding to
8 or describing a common concept, right?

9 A Yes.

10 Q Okay. And --

11 A But in this sense, I mean
12 "common" as in in common, not "common" as
13 frequent.

14 Q But included in your opinion is
15 the possibility that they were both
16 alluding to the same concept, correct?

17 A Yes.

18 Q Can you put a percentage on how
19 likely you are to be right or wrong that,
20 based on your four analyses, both Freeman
21 and Wolff are -- that the phrases come from
22 the same specific sources?

23 A Yeah. I mean, that's the point
24 of -- that is the point of the technical
25 appendix.